

## LAND USE AND ZONING COMMITTEE

*January 22, 2009*

The Land Use and Zoning Committee hereby find and determine that all formal actions were taken in an open meeting and that all deliberations of the Land Use and Zoning Committee, which resulted in formal action, were taken in a meeting open to the general public, in full compliance with applicable legal requirements of Section 121.22 of the Ohio Revised Code.

The meeting was called to order at 7:00 p.m.

The following members were present: Messrs. Bodnar, Hullihen, Klco, Terriaco, Urbanski, Welch, and Messes. Ross, and Diak. Staff: David Radachy

There are two cases:

### **Perry Township, Text Amendment to 301.01(D)(ii), 302.01(D)(ii), 303.01(D)(ii), and 304.01(D)(ii)**

Staff explained that this was a clean up text amendment. The Township amended its sign regulations in 2007 and did not amend these sections to show the new changes. Staff stated the Township was removing the line "non-illuminated, mounted flat against the wall of the principle building", and changing the section reference in the text from 409.09(b) to 409.09(a)(1). Staff recommended the Township should accept the changes.

Mr. Terriaco made a motion to recommend the text changes.

Ms. Diak seconded the motion.

All voted "Aye".

Motion passed.

### **Madison Township proposed language for A-1, R-1 and R-2 Districts.**

Township proposal: 104.1.10 Lots 1 acre or less the following shall be prohibited:

Raising, breeding, dairying, or maintaining farm animals/livestock such as horses, pigs, cows, sheep, goats, chickens, or similar livestock or fowl in any platted subdivision and pursuant to 711.05, 711.09, 711.10 and 711.13.1 of the ORC.

Staff stated there were some issues with the proposed regulations. Section 711.13.1 does not exist in the ORC. It should be 711.131. There are two ways to divide land in a township, by a plat or by deed, legal description and survey, more commonly know as a lot split. These two ways are defined by different sections of law. ORC 711.05, 09 and 10 define how plats are approved and 711.131 define how lot splits are approved. The issue with the way the proposed language is written is that it does not take in account that lot splits don't require a plat, so you cannot say any platted subdivision and pursuant to 711.05, 711.09, 711.10 and 711.13.1 of the ORC. The second issue is the fact 711.05, 711.09 and 711.10 define who approves the subdivision plat. In 711.05, the County Commissioners approve the plat, 711.09, it is the adjacent incorporated community and 711.10, it is the Planning Commission who approves the plat.

Staff was concerned about prohibiting agriculture. ORC 519.21 A states that the township will make no rules to prohibit agriculture. ORC 519.21 B is an exemption from that rule and states that a township may regulate agriculture on lots 1 acre or less or may regulate dairying, animal and poultry husbandry on lots between 1.01 acres and 5 acres. Staff has a concern that 519.21 B is an exception from the rule stated in ORC 519.21 A and the exception is only regulated, and this exception may not supersede the provision that the township cannot prohibit agriculture.

There are various positions on this issue and many communities have taken the position of prohibiting agriculture while others have heavily regulated agriculture. Staff recommends legal counsel review this issue.

Staff is concerned that the township is only regulating animals and not crops. But ORC 519.21 B 1 only allows regulation of animals on lots greater than 1 acre to 5 acres. So the township may not have an issue regulating just animals.

ORC 519.01 defines agriculture well and the township should consider sticking to the definition.

“Agriculture” includes farming; ranching; aquaculture; apiculture; horticulture; viticulture; animal husbandry, including, but not limited to, the care and raising of livestock, equine, and fur-bearing animals; poultry husbandry and the production of poultry and poultry products; dairy production; the production of field crops, tobacco, fruits, vegetables, nursery stock, ornamental shrubs, ornamental trees, flowers, sod, or mushrooms; timber; pasturage; any combination of the foregoing; the processing, drying, storage, and marketing of agricultural products when those activities are conducted in conjunction with, but are secondary to, such husbandry or production. Animal husbandry poultry and dairy are defined in this definition and the township consider using the ORC Terms.

Staff recommends the revision of the proposed language as follows if the township wishes to continue with a prohibition:

104.1.10 Lots 1 acres or less in any platted subdivision approved under 711.05, 711.09 or 711.10 of the ORC or in any area consisting of fifteen or more lots approved under section 711.131 of the revised code that are contiguous to one another and adjacent to one side of a dedicated public road, and the balance of which is contiguous to one another and adjacent to the opposite side of the same dedicated public road, the following should be prohibited:

Animal husbandry, poultry husbandry and the production of poultry, poultry products and dairy production.

The Committee asked if the township prohibited agriculture, both animals and crops, from lots on one acre or less would that include personal gardens. Staff stated yes, but the township could follow Painesville Township’s example and exempt the gardens in the regulations. The committee asked if the township prohibited the animals from lots one acre or less, would the people who have animals be non-conforming? Staff stated no, the state law had a provision for lots between 1 acre and 5 acres that stated how they interact with the non-conforming rules, but there were no provisions for lots one acre or less.

Ms. Diak made a motion to recommend staff’s revised text.

Mr. Welch seconded the motion.

All voted “Aye”.

Motion passed.

Meeting adjourned at 7:15 P.M.